



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Joseph Tyler and John S. Petersen
Application No.: 09/691,429 Group Art Unit: 1616
Filed: October 18, 2000 Examiner: Dewitty, R. M.
For: Direct Compression Polymer Tablet Core

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CERTIFICATE OF MAILING	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Assistant Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202	
on <u>Sept. 30, 2002</u>	<u>Judy Breen</u> Signature
_____ Judy Breen Typed or printed name of person signing certificate	

PETITION UNDER 37 C.F.R. § 1.181

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OFFICE OF PETITIONS

Assistant Commissioner for Patents
P.O. Box 2327
Arlington, VA 22202

Sir:

An Office Action Made Final was mailed on July 29, 2002 in response to an Amendment filed April 12, 2002. Applicants hereby petition to withdraw finality of the Office Action.

An Office Action Made Final is premature under the following circumstances:

...where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). MPEP 706.07(a)

The Office Action Made Final included a new rejection of Claims 2-18 under 35 U.S.C. § 103(a) over U.S. Patent Nos. 5,496,545 (Holmes-Farley, *et al.*) and 4,302,440 (John, *et al.*). Holmes-Farley, *et al.* had previously been cited by the Examiner, however John, *et al.* was newly

cited. John, *et al.*, was made of record in an Information Disclosure Statement filed October 18, 2000 under 37 C.F.R. § 1.97(b).

The Amendment filed April 12, 2002 amended Claims 2-18 to recite a tablet comprising a core and a coating therefor. The amended claims contain all of the limitations of the original claims. Previously, the claims were directed to a tablet core and Claims 13-16 were directed to a tablet core further comprising a water-based coating. Thus, some of the claims recited a tablet core with a coating prior to amendment. No claim amendment has been made necessitating a new rejection. Therefore, the finality of the Office Action has been made prematurely. Withdrawal of the finality of the Office Action is respectfully requested.

Please charge any fees that may be due in this matter to Deposit Account No. 08-0380.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

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Dated:

September 30, 2002